

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: April 27, 2005
)	
Cedric Barry)	DOCKET NO.: 04F-379
Director, Financial Systems (Former))	
Office of the Chief Financial Officer)	
DC Public Schools)	
3007 Paladin Terrace)	
Olney, Maryland 20832)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of the General Counsel following a determination by its Public Information and Records Management Division, that pursuant to D.C. Official Code §1-1106.02 (2001 Edition), Cedric Barry, Director, Financial Systems (Former), Office of the Chief Financial Officer, DC Public Schools, failed to timely file, a Financial Disclosure Statement for calendar year 2003, on or before May 15, 2004 as required by D.C. Official Code §1-1106.02, and also failed to file on or before the OCF sanctioned extended filing deadline of June 21, 2004.

By Notice of Hearing, Statement of Violations and Order of Appearance dated February 10, 2005, OCF ordered Cedric Barry (hereinafter respondent), to appear at a scheduled hearing on February 25, 2005 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2003, on or before June 21, 2004.

On February 25, 2005, the respondent appeared at the scheduled hearing and testified that he separated from the District Government in June 2003. Respondent stated that he was not afforded an exit interview, and that he was not aware of the filing requirement upon separation from government service. Respondent further stated that he

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did not recollect receiving notices to file from OCF. Respondent filed the required Financial Disclosure Statement at the conclusion of the hearing.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent timely filed Financial Disclosure Statements for calendar years 1999, 2000 and 2001 on May 16, 2000, May 11, 2001 and May 13, 2002 respectively.
2. Respondent was separated from government service in June 2003.
3. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2003, on or before June 21, 2004.
4. Respondent filed the required Financial Disclosure Statement on February 25, 2005.
5. Respondent provided a credible explanation for the filing delinquency because he believed he was not informed of the requirement to file a Financial Disclosure Statement upon separation from government service.
6. OCF provided notice to file if the filer ceases to serve prior to May 15th of any year, and within 30 days of any change in information on its Financial Disclosure Statement form.
7. Respondent has no history of prior filing delinquencies.
8. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.

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3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file, in that he believed he was not informed of the requirement to file upon separation from government service, coupled with a favorable filing history, constitute good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter be hereby suspended.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order, by regular mail, on respondent on April 27, 2005.

cc: Natwar M. Gandhi, Chief Financial Officer
Office of the Chief Financial Officer
1350 Pennsylvania Avenue, NW
Room 209
Washington, DC 20004

Diane Camilleri, HR Director
Office of the Chief Financial Officer
1350 Pennsylvania Avenue, NW
Room 209
Washington, DC 20004

NOTICE

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.